

R.D. # 0005-06
Totowa, NJ

**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 22**

FIT-RITE BODY PARTS, INC.¹

Employer

and

CASE 22-RC-12698

**AMALGAMATED INDUSTRIAL AND
TOY AND NOVELTY WORKERS
OF AMERICA, LOCAL 223, AFL-CIO²**

Petitioner

DECISION AND DIRECTION OF ELECTION

The Petitioner filed a representation petition pursuant to Section 9(c) of the National Labor Relations Act. As there were no issues raised which would preclude an election in this matter, I will direct an election in the appropriate unit described below.

Pursuant to the provisions of Section 3(b) of the Act, the Board has delegated its authority in this proceeding to the undersigned. Upon the entire record,³ I find:

1. The hearing officer's rulings made at the hearing are free from prejudicial error and are hereby affirmed.

¹ The name of the Employer appears as amended at the hearing.

² The name of the Petitioner appears as amended at the hearing.

³ I note the Board's Rules specifically provide that the Regional Director may proceed to issue a decision "forthwith upon the record" without waiting for the parties to file briefs. See Sec.102.67(a) of the Board's Rules; *E.L. Gardner, A Division of Bardon, Inc.*, 5-RC-15041, Board Order dated July 20, 2000.

2. The Employer is engaged in commerce within the meaning of the Act and it will effectuate the purposes of the Act to assert jurisdiction herein.⁴
3. Petitioner claims to represent certain employees of the Employer.⁵
4. A question affecting commerce exists concerning the representation of certain employees of the Employer within the meaning of Section 9(c)(1) and Section 2(6) and (7) of the Act.⁶
5. The following employees of the Employer constitute a unit appropriate for the purpose of collective bargaining within the meaning of Section 9(b) of the Act:

All full-time and regular part-time warehousemen and drivers employed by the Employer at its Totowa, New Jersey facility, excluding all office clerical employees, managerial employees, professional employees, guards and supervisors as defined by the Act.⁷

DIRECTION OF ELECTION

An election by secret ballot shall be conducted by the undersigned among the employees in the unit found appropriate at the time and place set forth in the notices of election to be issued subsequently subject to the Board's Rules and Regulations. Eligible to vote in the election are those in the unit who were employed during the payroll period ending immediately before the date of this Decision, including employees who did not work during that period because they were ill, on vacation or temporarily laid off. Employees engaged in an economic strike who have retained their status as strikers and have not been permanently replaced are also eligible to vote. In addition, in an economic strike that commenced less

⁴ The Employer is a New Jersey corporation engaged in the warehousing, sale and distribution of automobile parts at its Totowa, New Jersey location, its only location involved herein.

⁵ The parties stipulated, and I find, that Petitioner is a labor organization within the meaning of the Act.

⁶ There are no bars asserted to an election being conducted in this matter.

⁷ The unit description is in accord with the stipulation of the parties which I find to be appropriate for purposes of collective bargaining. There are approximately 45 employees in the unit.

than 12 months before the election date, employees engaged in such strike that have retained their status as strikers but who have been permanently replaced, as well as their replacements, are eligible to vote. Unit employees in the military services of the United States may vote if they appear in person at the polls. Ineligible to vote are (1) employees who have quit or been discharged for cause since the designated payroll period; (2) striking employees who have been discharged for cause since the strike began and who have not been rehired or reinstated before the election date; and (3) employees who are engaged in an economic strike that began more than 12 months before the election date and who have been permanently replaced. Those eligible shall vote whether or not they desire to be represented for collective bargaining purposes by **Amalgamated Industrial and Toy and Novelty Workers of America, Local 223, AFL-CIO.**

LIST OF VOTERS

In order to ensure that all eligible voters may have the opportunity to be informed of the issues in the exercise of their statutory right to vote, all parties in the election should have access to a list of voters and their addresses which may be used to communicate with them. *Excelsior Underwear, Inc.*, 156 NLRB 1236 (1966); *NLRB v. Wyman-Gordon Company*, 394 U.S. 759 (1969). Accordingly, it is hereby directed that within seven (7) days of the date of this Decision, two (2) copies of an election eligibility list containing the full names and addresses of all the eligible voters shall be filed by the Employer with undersigned, who shall make the list available to all parties to the election. *North Macon Health Care Facility*, 315 NLRB 359 (1994). In order to be timely filed, such list must be received in the NLRB Region 22, 20 Washington Place, 5th Floor, Newark, New Jersey 07102, on or before **June 21, 2006**. No extension of time to file this list shall be granted except in extraordinary

circumstances, nor shall the filing of a request for review operate to stay the requirement here imposed.

RIGHT TO REQUEST REVIEW

Under the provision of Section 102.67 of the Board's Rules and Regulations, a request for review of this Decision may be filed with the National Labor Relations Board, addressed to the Executive Secretary, 1099 14th Street, N.W., Washington, DC 20570-0001. This request must be received by the Board in Washington by **June 28, 2006**.

Signed at Newark, New Jersey this 14th day of June 2006.

/s/ J. Michael Lightner

J. Michael Lightner, Acting Director, Region 22
National Labor Relations Board
20 Washington Place, 5th Floor
Newark, New Jersey 07102